

DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D. C. 20548

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FILE: B-214594.2

DATE: May 22, 1984

MATTER OF: Five Star Fabricators, Inc.--Request for
reconsideration

DIGEST:

1. Small Business Administration is authorized by statute to determine conclusively all elements of small business responsibility. If it refuses to issue a certificate of competency, GAO regards this as an affirmation of the contracting agency's nonresponsibility determination, reviewable only if there is a showing of possible fraud or bad faith on the part of contracting officials or that material evidence was not considered by SBA.
2. Methods and procedures employed by Defense Contract Administrative Services Region in conducting preaward survey are not for review under GAO Bid Protest Procedures, which are reserved for determining the propriety of an award or proposed award of a government contract.

Five Star Fabricators, Inc., by letter dated March 28, 1984, requests that our Office review the methods and procedures employed by the Defense Contract Administrative Services Region (DCASR), Philadelphia. The firm initially requested such a review in protesting a nonresponsibility determination by the Department of the Army under solicitation No. DAAJ09-83-B-A803, alleging that DCASR had not accurately assessed its financial status.

Five Star states that our decision on that protest, Five Star Fabricators, Inc., B-214594, March 20, 1984, 84-1 CPD ¶ 340, failed to address its request with regard to DCASR. We therefore view the letter of March 28 as a request for reconsideration, which we dismiss.

We dismissed Five Star's initial protest because the Army had forwarded its nonresponsibility determination to the Small Business Administration, which is authorized to determine conclusively all elements of small business

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responsibility. 15 U.S.C. § 637(b)(7)(A) (1982). If SBA refuses to issue a certificate of competency, we regard this as an affirmation of the contracting agency's non-responsibility determination, which we would review only if there is a showing of possible fraud or bad faith on the part of contracting officials or that material evidence was not considered by SBA.

In this case, Five Star elected not to apply for a certificate of competency. Rather, it has challenged DCASR's methods and procedures, alleging in very general terms that they do not conform to accepted accounting procedures and are inconsistent with those required of a defense contractor seeking to have its accounting system certified. Five Star argues that a determination of responsibility or nonresponsibility by SBA would not overcome or prevent future errors by DCASR.

We do not believe the methods and procedures employed by DCASR are appropriate for review under our Bid Protest Procedures, 4 C.F.R. Part 21 (1984). These are reserved for consideration of whether the award or proposed award of a particular contract complies with the statutes and regulations governing procurement by the federal government, and are not available for challenging future procurements. See Synergetics International, Inc., B-212553, Oct. 3, 1983, 83-2 CPD ¶ 405.

Five Star has not shown, in connection with the procurement in question, that the Army acted fraudulently or in bad faith in relying on a preaward survey by DCASR, and has not given the SBA an opportunity even to consider the question of its responsibility. Thus, the possibility that SBA did not consider material evidence does not arise. Under these circumstances, Five Star has failed to state a claim for which our Office can grant relief.

The request for reconsideration is dismissed.

Harry R. Van Cleve

Harry R. Van Cleve
Acting General Counsel